

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

KANSAS CITY ASSOCIATION OF)	
EDUCATIONAL OFFICE PERSONNEL,)	
)	
Petitioner,)	
)	
v.)	Public Case No. AC 91-012
)	(Cross Reference AC 90-021
)	and R 86-017)
KANSAS CITY SCHOOL DISTRICT,)	
)	
Respondent.)	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the refiling of a petition by Kansas City Association of Educational Office Personnel seeking to amend its certification as bargaining representative of certain employees of the Kansas City School District to reflect its affiliation with Kansas City Federation of Teachers, Local 691, AFT. A hearing on said petition was held on February 20, 1991, in Jefferson City, Missouri at which representatives of the Kansas City Association of Educational Office Personnel, Kansas City Federation of Teachers, Local 691 and the District were present. The case was heard by State Board of Mediation Chairman Mary L. Gant, employer member Pamela S. Wright, and employee member Paul Sanchez. At the hearing, the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the following findings of fact, conclusions of law and order granting amendment of certification.

FINDINGS OF FACT

This Board certified the Kansas City Association of Educational Office Personnel, hereinafter KCAEOP, as the bargaining representative for the secretarial, clerical, and data-entry employees of the Kansas City School District on October 10, 1986 (Case No. R 86-017). Since that time, the KCAEOP and the District have been parties to a series

of labor agreements covering the approximately 275 employees in the bargaining unit represented by KCAEOP. From its inception, KCAEOP was represented in these negotiations by its officers.

The officers of KCAEOP are full time bargaining unit employees who serve the organization on a volunteer basis. New officers are elected every school year. A nominating committee solicits members interested in running for office. The following individuals are the current officers: Rosa Taylor is President; Mary Taylor is President-elect; Judy Broadus is Vice-President; Donna Strickland is Secretary; Lonsetta Wiley is Corresponding Secretary; Virginia Allen is Treasurer; and Laura Soloman is the Members-At-Large representative. The constitution and by-laws of the KCAEOP were adopted in 1987. Membership dues were \$10 per year.

At a date not identified in the record, the Executive Board of the KCAEOP met to discuss affiliation with representatives of the Kansas City Federation of Teachers, Local 691, a labor organization which represents professional and security personnel in the Kansas City School District. During these discussions, Local 691 offered KCAEOP grievance and negotiations assistance, legal representation and a seat on Local 691's Executive Board in exchange for affiliation with Local 691 and remittance of monthly dues (\$8.70/month). Following these discussions, the Executive Board of the KCAEOP voted unanimously to affiliate with Local 691. At a date not identified in the record, the membership of KCAEOP met and voted by a show of hands to affiliate with Local 691.

Following this affiliation vote, the District and KCAEOP negotiated a successor labor agreement. KCAEOP was represented at the table by officers Rosa Taylor, Mary Taylor, Laura Soloman, and Mary Owens, and Local 691 staff representatives Steve McLuckie, Cathy Reed, and Gloria Britton. This labor agreement, which is currently in effect, is between the District and KCAEOP/Kansas City Federation of Teachers, Local 691, AFT. After being negotiated, it was ratified by the membership in the same way the previous agreements were ratified. The District now deducts semi-monthly dues from

KCAEOP members and remits same to Local 691 rather than KCAEOP as was previously the case. KCAEOP is still operating under its 1987 constitution and bylaws. The election of officers and their functions remain as existed prior to the affiliation with Local 691.

On April 9, 1990, KCAEOP filed a petition with this Board seeking to amend its certification as bargaining representative to reflect its affiliation with Kansas City Federation of Teachers, Local 691, AFT. That petition was dismissed by the Board on October 15, 1990. That decision held in pertinent part that the aforementioned membership affiliation vote accomplished by a show of hands did not comport with the requirements of due process.

On January 2, 1991, President Rosa Taylor sent the following letter to all District secretaries and clerks who were members of the KCAEOP:

January 2, 1991

Secretaries/Clerks:

After holding several informal conferences and correspondences with Mary Gant, Chairwoman, State Board of Mediation, Jefferson City, MO, it is imperative that a secret ballot be held to officially acknowledge KCAEOP's affiliation with KCFT, Local 691.

Your presence is requested January 17, 1991, at Carpenter's Hall, 2nd Floor, 625 West 39th Street, Kansas City, MO. Business meeting has been scheduled at 5:30 p.m. It is not mandatory that you attend the business meeting. Rather, you may vote anytime between 5:00 p.m. - 6:30 p.m. Only KCAEOP members are eligible to vote. Question on ballot: Shall KCAEOP affiliate with KCFT, Local 691?

Barbecue will be catered by Winslow's. Child care services will not be provided.

Sincerely,

Rosa Taylor, President

The meeting referred to above was held as scheduled on January 17, 1991. Members signed in at the door and were handed a paper ballot by Mary Taylor. The business portion of the meeting was held first. Thereafter, an open discussion was held concerning various aspects of affiliation with Local 691. Afterwards, the affiliation vote was taken. The ballot provided as follows:

January 17, 1991

Secret Ballot

QUESTION: Shall Kansas City Association of Educational Office Personnel (KCAEOP) affiliate with Kansas City American Federation of Teachers, Local 691 (KCAFT)?

YES

NO

Those individuals present marked their ballot, folded it, and placed it in a sealed ballot box in the meeting room. After the voting ceased at 6:30 p.m., the ballot box was opened, and the ballots counted by election tellers Mary Taylor and Claudia Witcher. The vote tally for the KCAEOP to affiliate with the Kansas City Federation of Teachers, Local 691 was 28 for and 0 against.

CONCLUSIONS OF LAW

KCAEOP has petitioned this Board to amend the certification issued to it in Case No. R 86-017 to reflect its affiliation with Kansas City Federation of Teachers, Local 691.

As noted in the Findings of Fact, this is round two in this matter because this Board previously dismissed KCAEOP's petition for amendment of certification. In our October 15, 1990 Order, we identified what legal standard would be utilized to grant or deny an amendment of certification and proceeded to apply it to the then existing facts. In pertinent part, we found that KCAEOP's affiliation vote accomplished by a show of hands did not comport with the requirements of due process. Following that decision, KCAEOP sought to remedy this defect by holding another affiliation vote, this time

accomplished by a secret ballot. We will now apply the previously identified legal standard to the facts shown at the hearing.

The applicable legal standard is that when an affiliation of one union with another prompts the union to seek an amendment of Board certification, we will review the affiliation to determine (1) whether there was substantial continuity between the pre-affiliation and post-affiliation union; and (2) whether union members had an adequate opportunity to vote on affiliation. NLRB v. Financial Institution Employees of America, Local 1182, 475 U.S. 1982 (1986); Western Commercial Transport, Inc., 288 NLRB No. 27, 127 LRRM 1313 (1988). In deciding whether there was substantial continuity between the pre-affiliation and post-affiliation union (criteria (1) above), the focus of inquiry will be whether the affiliation substantially changed the union. This involves such factors as whether the pre-affiliation union retained local autonomy, local officers, and continued to follow established procedures. In deciding whether the affiliation election (criteria (2) above) was conducted with adequate "due process" safeguards, we will review whether there was:

- (a) adequate notice of the affiliation vote to all members;
- (b) an adequate opportunity for members to discuss affiliation; and
- (c) reasonable precautions were taken to maintain ballot secrecy.

NLRB v. Financial Institution Employees of America, Local 1182, supra; NLRB v. Newspapers, Inc., 515 F.2d 334 (5th Cir., 1975).

The record evidence persuades this Board that there was substantial continuity between the pre-affiliation union (i.e. KCAEOP) and the post-affiliation union (i.e. KCAEOP/Kansas City Teachers, Local 691). In so finding, we are well aware that the affiliation provided KCAEOP with certain services such as grievance and negotiation assistance which they apparently performed themselves in the past. Members now pay higher dues for these additional services. These changes, though, do not establish loss

of control by KCAEOP or the takeover of KCAEOP by Local 691. This is because the post-affiliation union still has local officers who are elected in the same way as before the affiliation and who perform the same duties as before. In addition, the post-affiliation union is operating under the same constitution and bylaws (i.e. procedures) as before and its assets have not changed. Finally, it is noted that labor agreements are still ratified by the members as they were before the affiliation. In short then, the evidence does not establish a loss of autonomy by KCAEOP. Given the foregoing, we do not find any significant change in the identity of KCAEOP to have occurred because of its affiliation with Kansas City Federation of Teachers, Local 691.

Turning to the issue of whether KCAEOP complied with the due process requirements which an affiliation vote must meet, we initially note that compliance must be examined in light of the totality of the circumstances rather than in isolation. Thus, all the facts and circumstances will be considered in determining whether the affiliation vote was conducted with requisite due process safeguards.

With respect to the adequacy of the notice of the affiliation vote, we note that Taylor's letter of January 2, 1991, gave members over two weeks advance notice of the January 17, 1991 meeting. In our view, this notice was adequate. This letter specifically advised members that the question of affiliation would be voted upon by the members at that time. Next, we also conclude that there was sufficient opportunity for discussion of the affiliation. Our basis for this finding is quite simple; no one testified to the contrary. Although the record does not contain the actual extent and substance of the discussion that was held, this does not affect the outcome here. We therefore hold that this requirement has also been satisfied. The final due process consideration is whether there were reasonable precautions taken to maintain ballot secrecy. It is noted in this regard that printed ballots were distributed to members attending and that the individual members marked them and placed them in the ballot box. No evidence was presented that the secrecy of any member's vote was violated, that other than members

voted, that the votes were not properly collected or counted, or that the vote was tainted by any other impropriety. As a result, we are satisfied that the procedure utilized at the January 17, 1991 affiliation vote reasonably ensured ballot secrecy.

In as much as the requisite due process safeguards in the affiliation vote were met and as we have earlier herein concluded that the affiliation did not significantly change the identity of KCAEOP, the amended certification sought by KCAEOP is therefore granted.

ORDER GRANTING AMENDMENT OF CERTIFICATION

Based on the foregoing, it is held that KCAEOP's affiliation with Kansas City Federation of Teachers, Local 691 satisfied with the requirements outlined above. Accordingly, the certification granted to KCAEOP in Case No. R 86-017 is hereby amended to reflect its new name and affiliation: KCAEOP/Kansas City Federation of Teachers, Local 691, AFT, AFL-CIO.

Signed this 28th day of March, 1991.

STATE BOARD OF MEDIATION

(S E A L)

/s/ Mary L. Gant

Mary L. Gant, Chairman

/s/ Paul Sanchez

Paul Sanchez, Employee Member

/s/ Pamela S. Wright

Pamela S. Wright, Employer Member